

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ULYSSES CAPINPIN Y ESPINA, ACCUSED-APPELLANT.

G.R. No. 118608. October 30, 2000

Ponente: BUENA, J.

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BUENA, J.:

This is an appeal from the joint decision[1] of the Regional Trial Court of Manila, Branch 33,[2] dated September 3, 1993, in Criminal Case Nos. 92-103035 and 92-103036, finding accused-appellant Ulysses Capinpin guilty of rape and imposing upon him the penalty of reclusion perpetua in Criminal Case No. 92-103035. Accused-appellant was acquitted in Criminal Case No. 92-103036 for insufficiency of evidence.

Upon sworn complaint[3] by the offended party, two (2) informations were filed against accused-appellant. The information in Criminal Case No. 92-103035 reads:

"That on or about August 20, 1991, in the City of Manila, Philippines, the said accused, with lewd design, by means of force, violence and intimidation, to wit: by then and there locking her inside a room, pushing her on bed (sic) telling her not to shout, poking her (sic) a deadly weapon, then inserting his organ into her private part, did then and there wilfully, unlawfully and feloniously have carnal knowledge of the said ABEGAIL JANET QUILALA Y CASPE against her will and consent.

Contrary to law."[4]

In Criminal Case No. 92-103036, the information alleges:

"That on or about February 2, 1992, in the City of Manila, Philippines, the said accused, with lewd design, by means of force, violence and intimidation, to wit: entering the house of one ABEGAIL JANET QUILALA Y CASPE, waking her up, compelling her to smell marijuana then pushing her on bed (sic) while poking a deadly weapon on her neck, undressing her and inserting his organ into her private part, did then and there wilfully, unlawfully and feloniously have carnal knowledge of the said ABEGAIL JANET QUILALA Y CASPE against her will and consent.

Contrary to law."[5]

When arraigned, accused-appellant pleaded not guilty to both charges.[6] Trial on the merits ensued. The prosecution presented four (4) witnesses, namely: private complainant Abegail Janet Quilala; Milagrosa Quilala, private complainant's mother; Dr. Eliza Nazal, a psychiatrist at the Philippine General Hospital (PGH); and SPO2 Conrado Quilala, Jr. The defense, on the other hand, presented accused-appellant Ulysses Capinpin; Michelle Abad, accused-appellant's niece; and Noemi Abad, accused-appellant's sister.

Twenty-year-old private complainant testified that on August 20, 1991, she was in the house of accused-appellant (who was living with her cousin, Bonifacio Abad and the latter's wife, Noemi Abad) because she was asked by Bonifacio Abad's housemaid to take care of Abad's adopted child.[7] Accused-appellant, Bonifacio Abad and Noemi Abad were all inside the house.[8] While taking care of the said child inside a room located upstairs,

accused-appellant followed her. She laid the said child on the cradle and was about to go out of the room when accused-appellant suddenly entered the room.[9] When she asked him why he entered the room, he pushed her down on the bed.[10] He undressed her and poked a knife on the right side of her neck.[11] According to private complainant, he "inserted his organ to my organ." [12] Then, he kissed her face and body while she "suddenly struggled with (sic) him" by pushing him.[13] He instructed her not to shout. After the said incident, she went to their house. She did not report the incident to her mother because she was afraid of the accused-appellant's threat to kill her and her siblings.[14] Six months later, or on February 2, 1992, at 4:00 p.m., she was alone in their house. While sleeping, accused-appellant tried to awaken her. He brought out a knife and she saw him holding marijuana. He forced her to smell the marijuana but she parried it. She did not run nor leave the house because she was afraid of the accused-appellant. When she refused to undress as he told her, he poked the knife at her with his right hand while he undressed her with his left hand. Thereafter, he "immediately inserted his organ to my organ." [15] She tried to evade him but he threatened her.[16] Afterwards, he dressed up and went out of the house. Immediately thereafter, her mother arrived and saw her naked. Her mother shouted and asked why accused-appellant "did that" to her. At that moment, she did not tell her mother who "abused" her. Her mother "got mad" at accused-appellant because the latter slapped her while he was still inside their house. Her mother then left their house and asked some bystanders for help. The bystanders took accused-appellant to Bicutan. The following day, private complainant reported the incident to the police authorities in Bicutan. On the same day, private complainant was examined by Ma. Cristina B. Freyra, medico legal officer of the Philippine National Police Crime Laboratory. Medico-Legal Report No. N-0171-92 revealed the following:

"FINDINGS:

Fairly developed, fairly nourished and coherent female subject. Breasts are hemispherical with dark brown areola and nipples from which watery secretions could be pressed out. Abdomen is globularly enlarged with the fundus of the uterus palpable at about 16.5 cm above the symphysis pubis.

"GENITAL:

There is abundant growth of pubic hair. Labia majora are full, convex and gaping with dark brown, hypertrophied labia minora presenting in between. On separating the same is (sic) disclosed an elastic, fleshy-type hymen, with deep healed laceration at 6 o'clock. External vaginal orifice offers moderate resistance to the introduction of the examining index finger and the virgin-sized vaginal speculum. Vaginal canal is narrow with rounded rugosities. Cervix is normal in size, color and consistency.

"CONCLUSION:

Findings are compatible with 24 to 25 weeks pregnant state. There are no external signs of recent application of any form of violence." [17]

Private complainant testified on cross-examination that she is a manicurist and a high school graduate.[18] She has known accused-appellant since March 12, 1990 when she came from the province.[19] Accused-appellant lives with his sister Noemi Abad whose house is separated from private complainant's house only by a wooden wall. She explained that she was in her house when her cousin's maid asked her to take care of her cousin's child because she would wash her clothes. Private complainant took care of the child in her house for about two (2) hours, that is, from about 4:00 to 6:00 p.m. Afterwards, she returned the child to her cousin's house. She saw only the maid and accused-appellant in her cousin's house. She claimed that her cousin Bonifacio Abad and his wife were not in their house, contrary to her testimony on direct examination that both Bonifacio and Noemi Abad were in the house.[20] She clarified, however, that Bonifacio and Noemi Abad had just arrived from the hospital right after the incident. Private complainant could not remember if there was a birthday party in her cousin's house on August 20, 1991. She continued to testify that when she brought the child back to her cousin's house, the maid was at the back of the said house. She did not tell the maid that she was returning the child, but instead, she asked

permission from accused-appellant to leave the child on the second floor.[21] On further cross-examination, she contradicted her earlier testimony by stating that on August 20, 1991, she did not go to the house of her cousin, and that she did not go to the said house to take care of the child of her cousin.[22]

Milagrosa Quilala, private complainant's mother, testified that on February 2, 1992, she arrived at their house at around 6:00 p.m. and saw private complainant naked.[23] Accused-appellant was about to go out of their house when she came upon him. She shouted at him, "Walanghiya ka. Ano ang ginawa mo sa anak ko?" He slapped her, and then, she ran outside the house to ask for help. On cross-examination and upon inquiry by the trial court, she admitted that before February 2, 1992, she was not in good terms with accused-appellant. According to her, she did not talk with him and she evaded him because, "I am afraid of the brothers of Abegail [private complainant] because I am already a widow." [24]

The prosecution also presented Dr. Eliza Nazal, a psychiatrist at the Philippine General Hospital (PGH), who testified that she conducted a psychiatric examination of private complainant on two occasions, the first on July 31, 1991 and the second on August 6, 1991. Dr. Nazal's findings on the first psychiatric examination revealed "...an acute onset of behavioral changes described as difficulty in sleeping, decreased responsiveness, suicidal attempt, violent behavior and she was claiming to have seen devils. She was also noted to walk around stiffly like a "zombie". Upon examination, she was initially unresponsive but later she answered in whispers. She admitted to hearing voices and feeling that her thoughts are being read aloud." [25] On the second psychiatric examination, on August 6, 1991, private complainant was "much improved," "she was communicative and she denied having auditory hallucinations." [26] Despite continuing objection by the defense counsel, Dr. Nazal presented private complainant's Patient Case Record dated July 31, 1991 and the corresponding medical notes for the purpose of showing the mental condition of private complainant. [27]

In his defense, accused-appellant denied having had sexual relations with private complainant against her will, and claimed that they were sweethearts. According to accused-appellant, they have been sweethearts since July 1991. [28] In the evening of February 2, 1992, he went to the house of private complainant and told the latter's mother that private complainant was pregnant, and that he pitied the private complainant because she kept hiding the pregnancy. [29] Private complainant's mother got angry. Later that night he was taken by Conrado, Alex and Edgar Quilala and brought to Camp Bagong Diwa in Bicutan.

The defense also presented Michelle Abad, 11-year-old niece of accused-appellant, who testified that on August 20, 1991, at about 5:00 p.m., she was at their house celebrating her birthday with a party. [30] She presented her birth certificate, which showed that her birthday was on August 20, 1981. [31] She had a birthday party in their house, attended by her friends and relatives, including private complainant and accused-appellant. [32] The birthday party was held from 3:30 p.m. to 8:00 p.m. Private complainant and Milagrosa Quilala left the party at past 8:00 p.m., after washing the dishes. [33]

Noemi Abad corroborated her daughter Michelle's testimony that in the afternoon of August 20, 1991, there was a birthday party in their house, in celebration of Michelle's birthday, and attended by Michelle's friends, cousins and other relatives. [34] The birthday party was held from about 4:00 p.m. until 8:00 p.m. [35] Private complainant and Milagrosa Quilala stayed until 8:00 p.m. [36]

On rebuttal, the prosecution recalled private complainant, who denied that there was a birthday party in the house of Noemi Abad on August 20, 1991, and insisted, "I was at our house and I was raped." [37]

On September 3, 1993, the trial court rendered a joint decision [38] convicting accused-appellant in Criminal Case No. 92-103035 for the rape committed on August 20, 1991 but acquitting him in Criminal Case No. 92-103036 for the rape allegedly committed on February 2, 1992. The dispositive portion of the decision reads:

"WHEREFORE, accused is hereby convicted under Criminal Case No. 92-103035, committed on August 20, 1991 of the crime of rape defiened (sic) and punished under Article[s] 335 and 344 of the Revised Penal Code and in the absence of mitigating and aggravating circumstance, he is hereby sentenced to suffer the penalty of Reclusion Perpetua. Accused is likewise ordered to indemnify the offended party in the amount of P30,000.00 (THIRTY THOUSAND PESOS) and to acknowledge paternity of the offspring and to give support commensurate to the need of the offspring.

"In Criminal Case No. 92-103036, the rape committed allegedly on February 2, 1992, accused is acquitted for insufficiency of evidence.

"SO ORDERED."[39]

Hence this appeal. Accused-appellant assigns the following errors allegedly committed by the trial court:

I

THE TRIAL COURT ERRED IN FINDING THE ACCUSED TO HAVE HAD SEXUAL INTERCOURSE WITH PRIVATE COMPLAINANT IN THE PLACE, AT THE TIME AND ON THE DAY IN QUESTION.

II

EVEN ASSUMING [THAT] THE ACCUSED HAD SEXUAL INTERCOURSE WITH PRIVATE COMPLAINANT ON THE DATE AND AT THE TIME IN QUESTION, THE TRIAL COURT ERRED IN FINDING THE PRIVATE COMPLAINANT INSANE OR OTHERWISE DEPRIVED OF REASON WHEN THE SEXUAL INTERCOURSE TOOK PLACE.

III

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED OF RAPE OF A WOMAN WHO IS INSANE OR OTHERWISE DEPRIVED OF REASON UNDER AN INFORMATION CHARGING HIM WITH RAPE BY FORCE AND INTIMIDATION.

First, accused-appellant vigorously denies having had sexual intercourse with private complainant on August 20, 1991 in his house, contending that they celebrated his niece Michelle's birthday with a party in the said house, thus the absurdity and impossibility of the accusation against him.

Second, accused-appellant objects to the trial court's finding that private complainant was insane or otherwise deprived of reason at the time of the alleged incident, claiming that private complainant's hospital records do not prove such fact but actually disclose that private complainant was suffering only of "brief reactive psychosis."

Finally, and significantly, accused-appellant asserts that the trial court erred in convicting him of rape of a woman who is insane or otherwise deprived of reason under an information charging him with rape by the use of force and intimidation, over his continuing objection.[40] Accused-appellant maintains that "the evidence for the prosecution, especially with respect to the essential elements of the crime charged should be as alleged in the information. To allow the presentation of evidence on matters not so alleged is a violation of the constitutional right of the accused to be informed of the nature of the accusation against him. The accused should not be convicted of an offense not charged in the information."[41]

The appeal is impressed with merit.

In the recent case of *People vs. Moreno*,[42] we have ruled that an accused cannot be convicted under paragraphs 2 or 3 of Article 335 of the Revised Penal Code in an information charging him with rape by the use of force or

intimidation because none of these modes of committing rape (i.e., when the woman is deprived of reason or otherwise unconscious; or when the woman is under twelve years of age) were alleged in the information. The rationale for this rule is that "[t]o convict him under either of these statutory provisions is to deprive him of the constitutional right to be informed of the accusation against him." [43] Section 14 (2), Article III of the 1987 Constitution provides that "[i]n all criminal prosecutions, the accused...shall enjoy the right to be informed of the nature and cause of the accusation against him...." In *US vs. Karelsen*, [44] we explained the heart of this constitutional guarantee, thus:

"The object of this written accusation was - First. To furnish the accused with such a description of the charge against him as will enable him to make his defense; and second, to avail himself of his conviction or acquittal, for protection against a further prosecution for the same cause; and third, to inform the court of the facts alleged, so that it may decide whether they are sufficient in law to support a conviction, if one should be had."

In *People vs. Pailano*, [45] we have ruled that "[t]his right [of an accused to be informed of the nature and cause of the accusation against him] is safeguarded by the Constitution to every accused so he can prepare an adequate defense against the charge against him. Convicting him of a ground not alleged while he is concentrating his defense against the ground alleged would plainly be unfair and underhanded." [46]

In the case at bar, clearly the trial court erroneously found accused-appellant guilty under paragraph 2 of Article 335 of the Revised Penal Code, that is, rape of a woman who is deprived of reason, in an information charging him with rape by the use of force or intimidation, and over the objection of the defense to the presentation of evidence by the prosecution on the mental condition of the private complainant. As stated by the trial court in its Decision:

"xxx xxx. To prove consent, in the sexual relationship, accused[-appellant] marked in evidence the letter of the herein victim to the accused[-appellant]. The Court finds that indeed the sexual relationship of the accused[-appellant] with the victim are all with the latter;s (sic) consent. Such consent, however, cannot be interpreted to have been given with intelligence because as testified to by the doctor, the victim is a woman who is suffering from insanity.

"Having admitted sexual intercourse with the victim and also confession (sic) as to [the] alleged father of Abegail's pregnancy, and since the prosecution was able to prove that since July 1991, Abegail was already insane, it is now incumbent upon the accused[-appellant] to prove and overcome the undisputed fact, that at the time he had sexual intercourse with Abegail, the latter was already insane. It is the position of the accused[-appellant] that in order to overcome his innocence, the prosecution must prove force and intimidation as alleged in the information. This theory of the defense is fatal to their cause.

"When the prosecution succeeded in its endeavor to prove insanity on the part of the offended party, any sexual relation with her either with her consent or by force would be rape just the same, as the victim could not have acted with discernment (sic). Her resistance or her consent to the assault against her virtue by reason of her mental aberration will no longer be material.

"xxx xxx." [47]

We agree with the trial court's finding that while accused-appellant's sexual intercourse with Abegail was indeed with her consent, such consent cannot be deemed to have been given with intelligence, because Abegail was suffering from insanity. This is a factual finding which this Court will not disturb on appeal absent any showing that the trial judge overlooked facts of relevant value which, if considered, may affect the outcome of the case. [48]

WHEREFORE, in view of the foregoing, the decision of the trial court in Criminal Case No. 92-103035 is

REVERSED and accused-appellant Ulysses Capinpin y Espina is ACQUITTED and ordered immediately released unless there are other legal grounds for his continued detention. The Director of Prisons is DIRECTED to implement this Decision and to report to this Court immediately the action taken hereon within five (5) days from receipt hereof.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and De Leon, Jr., JJ., concur.

[1] Rollo, pp. 22-31.

[2] Presided by Judge Rodolfo G. Palattao.

[3] Records, pp. 3-4.

[4] Ibid. at p. 4.

[5] Ibid. at p. 5.

[6] Ibid. at p. 30.

[7] TSN, December 17, 1992, pp. 2-3.

[8] TSN, December 17, 1992, p. 3.

[9] TSN, December 17, 1992, p. 4.

[10] TSN, January 12, 1993, p. 3.

[11] TSN, January 12, 1993, p. 3.

[12] TSN, January 19, 1993, p. 2.

[13] TSN, January 19, 1993, p. 4.

[14] TSN, January 19, 1993, p. 6.

[15] TSN, January 19, 1993, p. 11.

[16] TSN, January 19, 1993, pp. 11-12.

[17] Exhibit C, Folder of Exhibits, p. 9

[.] [18] TSN, January 28, 1993, p. 15.

[19] TSN, January 28, 1993, p. 4.

[20] TSN, January 28, 1993, p. 13.

[21] TSN, January 28, 1993, p. 22.

[22] TSN, February 16, 1993, p. 7.

[23] TSN, February 16, 1993, pp. 15-16.

[24] TSN, February 16, 1993, p. 30.

[25] TSN, September 29, 1992, pp. 3-4.

[26] TSN, September 29, 1992, p. 4.

[27] TSN, October 22, 1992, pp. 2-9.

[28] TSN, June 15, 1993, p. 3.

[29] TSN, June 15, 1993, pp. 3-4.

[30] TSN, April 13, 1993, pp. 11-12.

[31] Exhibit 4, Folder of Exhibits, p. 19.

[32] TSN, April 13, 1993, pp. 13-15.

[33] Ibid., p. 15.

[34] TSN, June 10, 1993, pp. 3-4.

[35] Ibid., p. 4.

[36] Ibid.

[37] TSN, August 19, 1993, p. 4.

[38] Rollo, pp. 22-31.

[39] Ibid. at pp. 30-31.

[40] Ibid. at pp. 69-70.

[41] Ibid. at p. 70.

[42] 294 SCRA 728, 737 (1998).

[43] *People vs. Moreno*, 294 SCRA 728, 737 (1998).

[44] 3 PHIL 223 (1904), as cited in *People vs. Moreno* (294 SCRA 728).

[45] 169 SCRA 649 (1989).

[46] 169 SCRA 649, 653-654 (1989).

[47] Rollo, p. 30.

[48] *People vs. Siccuan*, 271 SCRA 168, 174 (1997).

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